

JURISDICTION:
General Reference:

LOUISIANA
West's Louisiana Statutes Annotated: Revised Statutes

Required Use of Safety Belts¹:

Requirements:

When a motor vehicle² is in forward motion, the driver and every front seat passenger shall wear a safety belt. §32:295.1(A) & (B)

Enforcement. "Probable cause for violation of the section shall be based solely upon a law enforcement officer's clear and unobstructed view of a person not restrained as required by this section. A law enforcement officer may not search or inspect a motor vehicle, its contents, the driver, or a passenger solely because of a violation of this section." §32:295.1(F)

Sanctions for Failure to Use or
Require the Use of Safety Belts:

1st offense-A fine of **\$25** including court costs 2nd offense-A fine of **\$50** including court costs 3rd and subsequent offense-A fine of **\$50 plus** court costs §32:295.1(G)(1) Note: Notwithstanding any other provision of law, these are the only fines and costs that can be assessed against an offender. §32:295.1(G)(2)

Effect on Civil Liability:

Failure to wear a safety belt shall not be considered evidence of comparative negligence and shall not be admitted to mitigate damages. §32:295.1(E)³

Required Use of Child Safety Restraint Systems⁴:

Requirements:

A State resident who transports a child <13 years old in a motor vehicle⁵ shall secure such child in a Federally approved child passenger

Required Use of Child Safety Restraint Systems:
(continued)

¹**Exemptions.** The requirement to use a safety belt does not apply in the following circumstances: (1) To rural letters carriers of the U.S. Postal Service while performing official duties; (2) to persons operating a farm vehicle with 5 miles of its principal place of use; (3) to persons delivering newspapers; and, (3) to persons who have a physical or mental condition that prevents the use of a safety belt. §32:295.1(C) & (D)

²The requirement to use a safety belt applies to passenger cars, to vans, to trucks having gross vehicle weight ≤10,000 lbs. (commonly referred to as pickup trucks) and to autocycles. However, the requirement does not apply to persons, who are operating or riding in such vehicles manufactured prior to January 1, 1981. §32:295.1(A)(1), (A)(2) & (B) Note: Not later than June 30, 2004, every school bus (public or private) must be equipped with occupant restraint systems. §17:164.2 "Autocycle" is defined as "an enclosed motorcycle that is equipped with safety belts, rollbar, windshield wipers, steering wheel, and equipment otherwise required on a motorcycle and which has no more than three wheels in contact with the roadway at any one time." §32:1(1.1)

³This statute was applied in *Keeth v. Dept. of Public Safety & Tran.*, 618 So2d 1154 (La.App. 2 Cir. 1993), and *Miller v. Coastal Corp.*, 635 So.2d 607 (La.App. 3 Cir. 1994).

⁴**Exemptions.** The requirement to use child passenger restraint requirement does not apply in the following circumstances: (1) To children being transported in a motor vehicle that is being used as an ambulance or other emergency vehicle; (2) to adults or applicable children where an emergency exists which would threaten the life of any person; and, (3) to children who, because of medical reasons, cannot be secured in a child passenger safety system or safety belt. §32:295(E)

⁵The term "motor vehicle" does not include bicycle, farm tractor, motorcycle, motor-driven cycle, truck with a carrying capacity >2,000 lbs., ambulance (or other emergency vehicle), school bus, church bus, private bus, a recreational vehicle which can carry >10 persons and commercial vehicles (truck, van or taxi). §32:295(B) This requirement only applies to motor vehicles that have been equipped with seat belts at the time of manufacture. §32:295(A) Note: Not later than June 30, 2004, every school bus (public or private) must be equipped with occupant restraint systems. §17:164.2

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Requirements: (continued)

restraint system. §32:295(A) However, as an alternative, if the child is 3 to 12 years old, they may be secured in a lap or safety belt in the rear seat of the vehicle.⁶ §32:295(C) Note: If the number of children to be secured exceeds the available seat belts, the children shall be seated in the vehicle's rear seat. §32:295(D)

Sanctions for Failure to Require the Use of Child Restraint Systems:

1st offense-A fine of **\$50** 2nd offense-A fine of **\$100** 3rd and subsequent offense-A fine of **\$100** and all court costs⁷ §32:295(H) In addition to any fine, a person, who violates these requirement is subject to having their driving privileges suspended. This suspension lasts until the they present proof to the court they have acquired an appropriate passenger restraint system. §32:295(H)

Note: The failure to use a child safety seat system shall not be considered a moving violation. §32:295(F)

Effect on Civil Liability:

The failure to secure a child passenger safety seat system shall not be considered as comparative negligence, nor shall such failure be admissible as evidence in the trial of any civil action with regard to negligence. §32:295(F)

Required Use of Motorcycle Protective Headgear⁸:

Requirements⁹:

I. No person <18 years old shall operate or ride on a motorcycle, motor driven cycle or motorized bicycle unless they are wearing a State approved safety helmet. §32:190(A)(1)

II. Any person ≥18 years old, who chooses not to wear a helmet, while

⁶If there are no rear seats, the child must be secured in an appropriate passenger restraint system. §32:295(C)

⁷A person cannot be charged with a subsequent offense until after 24 hours have elapsed between offenses. §32:295(G)

⁸Failure to wear a safety helmet is considered negligence. As a result, a motorcycle operator or passenger, who is injured in a traffic accident while riding on a motorcycle without wearing appropriate headgear, can have any damages for injuries awarded to them reduced because of such a failure. *Landry v. Doe*, 597 So.2d 14 (La.App. 1 Cir. 1992)

⁹I. These requirements do not apply to "off-road vehicles" that are being used for farm related activities and that are being driven on the shoulders of roads except interstate highways. §32:298.1(A) & (B) Note: The law pertaining to "off-road vehicles" does not apply to the roads in Orleans Parish. §32:298.1(D)

II. These requirements "do not apply to persons operating or riding in an autocycle if the vehicle is equipped with a roof which meets or exceeds standards for a safety helmet." §32:190(D)

operating or riding the motor vehicles in I, shall be covered by health insurance which has at least \$10,000 in benefits for bodily injuries. §32:190(A)(2)

Note: A person may obtain an exemption from these requirements when participating in an authorized parade or other public exhibition. §32:190(C)

Required Use of Motorcycle Protective Headgear:
(continued)

Sanctions for Failure to Use:

A fine of **\$50** which includes all court costs. §32:190(F)

Required Use of Motorcycle Eye Protection Device:

Requirements:

No person shall operate a motorcycle, or motor driven cycle unless they are wearing a State approved eye protection device. This requirement does not apply if the vehicle is equipped with windshield or to persons riding within an enclosed cab. §32:190.1

Sanctions for Failure to Use:

1st offense-An imprisonment for not more than **30 days** and/or a fine of not more than **\$175** Subsequent offense-An imprisonment term of not more than **90 days** and/or a fine of not more than **\$500** §32:57(A)

Required Use of Bicycle Protective Headgear:

Requirements:

None

Sanctions for Failure to Use:

Required Use of Bicycle Eye Protection Device:

Requirements:

None

Sanctions for Failure to Use:

Prohibition Against Riding in Unsecured Portion of Vehicle:

Requirements:

A person <12 years old is prohibited from riding (1) in the open bed of a truck with a gross weight of ≤6,000 lbs. (commonly referred to as a pickup truck) or (2) in a utility trailer. §32:284(C)

Sanctions for a Violation:

1st offense-An imprisonment term of not more than **30 days** and/or a fine of not more than **\$175** Subsequent offense-An imprisonment term of not more than **90 days** and/or a fine of not more than **500** §32:57(A)

Exemptions:

This prohibition does not apply (1) if the pickup truck is traveling ≤15 MPH and is participating in an authorized parade or (2) in emergency situations if the child is accompanied within the truck bed by an adult. §32:284(C)

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